

SCOTT N. SCHOOLS, SCSBN 9990
United States Attorney
JOANN M. SWANSON, CSBN 88143
Assistant United States Attorney
Chief, Civil Division
EDWARD A. OLSEN, CSBN 214150
Assistant United States Attorney
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-6915
FAX: (415) 436-6927

Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JIN WU and CHANG ZHANG,

Plaintiffs,

v.

ALBERTO GONZALES, United States
Attorney General, U.S. Department of Justice;
MICHAEL CHERTOFF, Secretary of the
Department of Homeland Security;
EMILIO GONZALEZ, Director of United States
Citizenship and Immigration Services,

Defendants.

No. C 07-3118 JF

ANSWER

The Defendants hereby submit their answer to Plaintiffs' Original Complaint for Writ in the
Nature of Mandamus and Declaratory Judgment Under 28 U.S.C. § 1361.

1. Defendants admit the allegations in Paragraph One, however, defendants deny that the delay
is improper or that the action has been withheld.

2. Defendants admit the allegations in Paragraph Two.

3. Defendants admit the allegations in Paragraph Three.

4. Defendants admit the allegations in Paragraph Four.

5. Defendants admit the allegations in Paragraph Five.

6. Defendants admit the allegations in Paragraph Six.

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JURISDICTION

7. Paragraph Seven consists of plaintiffs' allegations regarding jurisdiction, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary, defendants deny that this Court has jurisdiction under any of the provisions cited in Paragraph Seven.

VENUE

8. Paragraph Eight consists of plaintiffs' allegations regarding venue, to which no responsive pleading is required.

INTRADISTRICT ASSIGNMENT

9. Defendants admit the allegations in Paragraph Nine.

EXHAUSTION OF REMEDIES

10. Defendants deny the allegations in Paragraph Ten.

CAUSE OF ACTION

11. Defendants admit the allegations in Paragraph Eleven.

12. Defendants admit the allegations in Paragraph Twelve.

13. Defendants admit the allegations in Paragraph Thirteen.

14. Defendants are without sufficient information or knowledge to either admit or deny the allegations in Paragraph Fourteen.

15. Defendants are without sufficient information or knowledge to either admit or deny the allegations in Paragraph Fifteen.

16. Defendants are without sufficient information or knowledge to either admit or deny the allegations in Paragraph Sixteen.

17. Defendants are without sufficient information or knowledge to either admit or deny the allegations in Paragraph Seventeen.

18. Defendants admit the first sentence in Paragraph Eighteen; however, defendants deny the remaining allegations.

19. Defendants deny the allegations in Paragraph Nineteen.

20. Defendants deny the allegations in Paragraph Twenty.

21. Defendants deny the allegations in Paragraph Twenty-One.

22. Defendants deny the allegations in Paragraph Twenty-Two.

23. Defendants deny the allegations in Paragraph Twenty-Three.

24. Defendants deny the allegations in Paragraph Twenty-Four.

25. Defendants deny the allegations in Paragraph Twenty-Five.

PRAYER

26. Paragraph Twenty-Six consists of plaintiffs' prayer for relief, to which no admission or denial is required; to the extent a responsive pleading is deemed to be required, defendants deny this paragraph.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The court should dismiss the Complaint for lack for subject matter jurisdiction.

WHEREFORE, Defendants pray for relief as follows:

That judgment be entered for defendants and against plaintiffs, dismissing plaintiffs' Complaint with prejudice; that plaintiffs take nothing; and that the Court grant such further relief as it deems just and proper under the circumstances.

Dated: September 17, 2007

Respectfully submitted,

SCOTT N. SCHOOLS
United States Attorney

/s/
EDWARD A. OLSEN
Assistant United States Attorney
Attorneys for Defendants